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Equal Employment Opportunity Commission, et. al., v. Northwestern Human Services

Judge R. Barclay Surrick

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Equal Employment Opportunity Commission, et. al., v. Northwestern Human Services

Keywords

EEOC, Northwestern Human Services, 04-4531, Consent Decree, Disparate Treatment, Terms and Conditions, National Origin, Race, Black, Healthcare, Employment Law, Title VII

RBS

52

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION, et al.,

Plaintiffs,

v.

NORTHWESTERN HUMAN SERVICES

Defendant.

CIVIL ACTION NO. 04-4531

FILED

SEP 25 2006

MICHAEL E. KUNZ, Clerk
By [Signature] Dep. Clerk

CONSENT DECREE

Introduction

A. This action was instituted by the U.S. Equal Employment Opportunity Commission (“the EEOC” or “the Commission”) on September 27, 2004 against Northwestern Human Services (“Northwestern”) to enforce provisions of Title VII of the Civil Rights of 1964, as amended, 42 U.S.C. § 2000e et seq. (“Title VII”). The Commission alleged that Northwestern terminated Godwin Akiko, Izzeldeen Elhage, Mohammed Magzoob and a class of similarly situated employees, based on their national origin, African. The Commission also alleged Northwestern subjected Martin Nwoga, Onyebuchim Onyeanusu and a class of similarly situated employees to disparate treatment in the terms and conditions of their employment based on their national origin, African. The Commission, through pretrial discovery, identified and limited the “class of similarly situated employees” to Abboud Wali, Ibrahim Mohammed and Osman Osman. Northwestern denies all of these allegations.

B. This Consent Decree is entered into by and shall be final and binding between the EEOC and Northwestern, its directors, officers, agents, successors and assigns.

C. The EEOC and Northwestern agree to entry of this Consent Decree, which shall fully and finally resolve all claims which were raised by the EEOC in its Complaint filed on behalf of Godwin Akiko, Izzeldeen Elhage, Mohammed Magzoob, Martin Nwoga, Onyebuchim Onyeausi and a class of similarly situated employees, including Abboud Wali, Ibrahim Mohammed and Osman Osman (civil case no. 2:04-cv-04531-RBS). This Consent Decree shall not constitute either an adjudication of or finding on the merits of the complaint and shall not be construed as an admission by Northwestern of any violation of Title VII. Northwestern expressly denies any wrongdoing in this matter, and this Decree shall, under no circumstances, be construed or deemed to be evidence or admitted as evidence of (i) any wrongdoing, fault, or liability; or (ii) any infirmity in the defenses that Northwestern asserted.

Findings

D. Having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings, record and stipulations of the parties, the Court finds: (1) it has jurisdiction of the parties and subject matter jurisdiction of this action; and (2) the terms of this Decree are fair, reasonable, equitable and just, and adequately protect the rights of the parties and the public interest.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

Non-Discrimination and Non-Retaliation

1. This Court has jurisdiction over the parties and subject matter of this action.
2. Northwestern is enjoined from discrimination against any employee on the basis

of national origin in violation of Title VII.

3. Northwestern is enjoined from engaging in any employment practices which retaliate in any manner against any person because of that person's opposition to any practice made an unlawful employment practice under Title VII or because that person has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under Title VII.

4. Northwestern shall not divulge, directly or indirectly, to any identifiable employer or potential employer of any identified class member, any of the facts or circumstances related to the claims of discrimination against Northwestern in this case or any of the events relating to the participation any person in the litigation of this action, unless required to do so pursuant to an Order from a Court of competent jurisdiction.

5. Nothing in this Consent Decree, either by inclusion or exclusion, shall be construed to limit the obligations of Northwestern under Title VII or the EEOC's authority to process or litigate any charge of discrimination now pending or filed in the future against Northwestern.

Duration of the Decree

6. The Consent Decree shall be in effect for a period of three (3) years from the date it is entered by the Court.

Monetary Relief

7. Northwestern agrees to pay Godwin Akiko, Izzeldeen Elhage, Mohammed Magzoob, Martin Nwoga, Onyebuchim Onyeausi, Ibrahim Mohammed, Osman Osman and Abboud Wali the sum total of Six Hundred Thousand dollars (\$600,000.00), minus all lawful

deduction's and attorney's fees within twenty-one (21) calendar days after receipt of a Settlement Agreement and Release executed by each claimant and the Court's entry of an order approving this Consent Decree. This sum was agreed upon by the parties in order to resolve this matter without need for further litigation. The settlement funds will be allocated between Godwin Akiko, Izzeldeen Elhage, Mohammed Magzoob, Martin Nwoga, Onyebuchim Onyeausi, Ibrahim Mohammed, Osman Osman and Abboud Wali as set forth in Exhibit 1 (attached). The check(s) will be mailed to Nancy DeMis, Esquire, Gallagher, Schoenfeld, Surkin, Chupein & DeMis, 25 West Second Street, Media, PA 19422. Northwestern shall mail a copy of the check(s) to the attention of Terrence R. Cook, Senior Trial Attorney, EEOC, 21 South Fifth Street, Suite 400, Philadelphia, PA 19106-2515 concurrent with the mailing of the check to Nancy DeMis, Esq. Northwestern shall also provide to the Commission any return receipts returned by the United States Postal Service.

In order to receive the monetary relief set forth above, Godwin Akiko, Izzeldeen Elhage, Mohammed Magzoob, Martin Nwoga, Onyebuchim Onyeausi, Ibrahim Mohammed, Osman Osman and Abboud Wali will each be required to execute a Release as presented by Northwestern.

Posting of Notice

8. Within 20 business days after entry of this Decree, Northwestern shall post on all bulletin boards, used by Northwestern for communicating with employees at its corporate offices, satellite office, and all residential facilities, a same-sized copies of the Notice attached as Exhibit 2 to this Decree. The Notice shall remain posted for three (3) years from the date of entry of this Decree. Northwestern shall provide to the attention of Terrence R. Cook, Senior Trial Attorney,

EEOC, 21 South Fifth Street Suite 400, Philadelphia, PA 19106-2515, a list of the locations and dates of posting in each location within 40 days after entry of this Decree. If posted copies become defaced, removed, marred or otherwise illegible, Northwestern agrees to post a readable copy in the same manner as heretofore specified.

Training

9. Northwestern agrees that it or a vendor approved by EEOC, will conduct training for all managers and supervisors at their Pennsylvania facilities within one year of the filing of this Decree on employee rights and employer obligations under both Title VII and relevant state or local anti-discrimination laws, which training will emphasize what constitutes unlawful national origin discrimination in the workplace, how to keep the company free from such discrimination, what constitutes unlawful retaliation and will summarize how to conduct a prompt and effective investigation into allegations, complaints or charges of discrimination. Northwestern agrees to notify the Commission of the date of the training, and provide information regarding the substantive content of the training to the Commission prior to the training date.

Dispute Resolution

10. In the event either party to this Decree believes the other party has failed to comply with any provision(s) of the Decree, the complaining party shall notify the other party of the alleged non-compliance within 20 days of the alleged non-compliance and afford the alleged non-complying party 20 business days to remedy the non-compliance or satisfy the complaining party that the alleged non-complying party has complied. If the alleged non-complying party has not remedied the alleged non-compliance or satisfied the complaining party that it has complied

within 20 business days, the complaining party may apply to the Court for appropriate relief. This Decree shall not be deemed as a waiver by Northwestern of any defenses, procedural or otherwise, to any claim that Northwestern violated Title VII.

Miscellaneous Provisions

11. Each party to this Decree shall bear its own expenses, costs and attorneys' fees.
12. The terms of this Decree are and shall be binding upon the present and future representatives, agents, directors, officers, successors and assigns of Northwestern in their capacities as representatives, agents, directors and officers of Northwestern and not in their individual capacities. This paragraph shall not be construed as placing any limit on remedies available to the Court in the event any individual is found in contempt for a violation of this Decree.
13. This Consent Decree shall fully and finally resolve all claims which were raised by the EEOC in its Complaint in Civil Case No. 04-cv-4531-RBS.
14. This Consent Decree shall be filed in the United States District Court for the Eastern District of Pennsylvania and shall continue in effect for five years. During this time, this Court shall retain jurisdiction over this matter and the parties for purposes of enforcing compliance with the Decree, including issuing such orders as may be required to effectuate its purposes. Any application by any party to modify or vacate this Consent Decree during such period shall be made by motion to the Court on no less than 30 days' notice to the other party. Should any material disputes under this Decree remain unresolved after this two-year period, the term of the Decree shall be automatically extended (and the Court will retain jurisdiction of this matter to enforce the Consent Decree) until such time as all disputes have been resolved.

15. This case shall be and hereby is dismissed with prejudice, subject to this Court's jurisdiction to enforce the provisions of this Consent Decree.

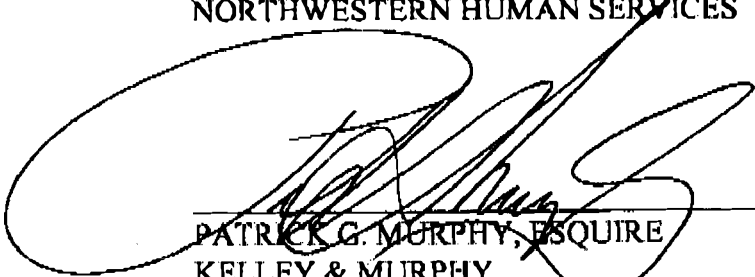
16. The Clerk of the District Court is hereby directed to send a file-stamped copy of this Consent Decree to counsel of record.

RONALD S. COOPER
General Counsel

JAMES L. LEE
Deputy General Counsel

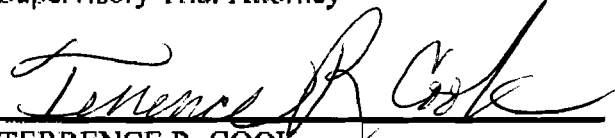
GWENDOLYN YOUNG REAMS
Associate General Counsel
Washington, D.C.

NORTHWESTERN HUMAN SERVICES


 PATRICK G. MURPHY, ESQUIRE
 KELLEY & MURPHY
 Union Meeting Corporate Center V
 Suite 160, 925 Harvest Drive
 Blue Bell, PA 19422
 (215) 643-6500


 JACQUELINE H. MCNAIR
 Regional Attorney


 JUDITH A. O'BOYLE
 Supervisory Trial Attorney


 TERENCE R. COOK
 Senior Trial Attorney
 EQUAL EMPLOYMENT
 OPPORTUNITY COMMISSION
 Philadelphia District Office
 21 South 5th Street, Suite 400
 Philadelphia, PA 19106
 (215) 440-2688; (215) 440-2848 (FAX)

Attorneys for Plaintiff
Equal Employment Opportunity Commission

Dated:
 APPROVED AND SO ORDERED:

September 25, 2006
 DATE


 THE HONORABLE R. BARCLAY SURRICK, U.S.D.J.

Filed to Judith McNair
Mary Gorman
Terrence Cook

Edward Murphy
Patrick Murphy
Wangy Semin 9/25/06

Exhibit 1

EEOC v. Northwestern Human Services, C.A. No. 04-4531

Allocation of Settlement Proceeds

Godwin Akiko	\$75,000
Izzeldeen Elhage	\$75,000
Mohammed Magzoob	\$75,000
Martin Nwoga	\$75,000
Onyebuchim Onyeausi	\$75,000
Ibrahim Mohammed	\$75,000
Osman Osman	\$75,000
Abboud Wali	\$75,000
Total Amount	\$600,000

Exhibit 2

NOTICE TO ALL NORTHWESTERN HUMAN SERVICES EMPLOYEES

This Notice is posted pursuant to a Consent Decree entered by the federal court for the Eastern District of Pennsylvania in EEOC v. Northwestern Human Services, Civil Action Number 04-cv-4531-RBS, resolving a lawsuit filed by the Equal Employment Opportunity Commission ("EEOC") against Northwestern Human Services ("Northwestern").

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., as amended ("Title VII"), prohibits discrimination against employees and applicants for employment based upon national origin, sex, race, color or religion. Title VII further prohibits retaliation against employees or applicants who avail themselves of the rights under Title VII by engaging in protected activities, such as filing a charge of discrimination and/or testifying or participating in a Commission investigation. The EEOC is the federal agency which investigates charges of unlawful employment discrimination. The EEOC has the authority to bring lawsuits in federal court to enforce Title VII.

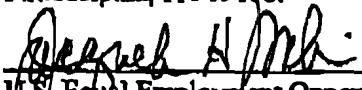
In its lawsuit, the EEOC alleged that Northwestern terminated a class of similarly situated employees, based on their national origin, African. The EEOC also alleged Northwestern subjected a class of similarly situated employees to disparate treatment in the terms and conditions of their employment based on their national origin, African. Northwestern denies all the EEOC's allegations.

To resolve the case, Northwestern and the EEOC have entered into a Consent Decree which provided, among other things, that: (1) Northwestern pay monetary relief the aggrieved employees; (2) Northwestern not discriminate on the basis of national origin in the future; (3) Northwestern not retaliate against any person because he or she opposed any practice made unlawful by Title VII, filed a Title VII charge of discrimination, participated in any Title VII proceeding, or asserted any rights under the Consent Decree; and (4) Northwestern will train all managers and supervisors in Pennsylvania and all employees and supervisors in its Human Resources Department regarding discrimination and retaliation, and regarding its policy prohibiting discrimination and retaliation.

If you believe you have been discriminated against, you may contact the EEOC at (215) 440-2600. The EEOC charges no fees and has employees who speak languages other than English.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This Notice must remain posted for three (3) years from the date below and must not be altered, defaced or covered by any other material. Any questions about this Notice or compliance with its terms may be directed to the: Regional Attorney, EEOC Philadelphia District Office, 21 South 5th Street, Philadelphia, PA 19106.



U.S. Equal Employment Opportunity
Commission



Northwestern Human Services

DATED: 9/14/06

DATED: 9/20/06

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END=SEP-25 16:01

FILE NO.=540

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002	OK	■	2156438356	011/011	00:01:39
003	OK	■	16105668257	011/011	00:01:23

-JUDGE R. BARCLAY SURRICK -

- ***** -

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF PENNSYLVANIA
414 UNITED STATES COURTHOUSE
INDEPENDENCE MALL WEST
SIXTH AND MARKET STREETS
PHILADELPHIA, PENNSYLVANIA 19106-1741

Chambers of
R. BARCLAY SURRICK
United States District Judge

(267) 299-7630

September 25, 2006

To: **Judith H. McNair, Esquire**
Mary H. Tiernan, Esquire
Terrance R. Cook, Esquire
Equal Employment Opportunity
Commission
21 S. 5th Street, Suite 400
Philadelphia, PA 19106
Fax: 215-440-2848

Edward J. Murphy, Esquire
Patrick G. Murphy, Esquire
Kelley & Murphy
925 Harvest Drive, Suite 160
Blue Bell, PA 19422
Fax: 215-643-8356

Nancy C. Demis, Esquire
Gallagher, Schoenfeld, Surkin,
& Chupein
25 West Second Street
Media, PA 19063
Fax: 610-566-8257

Re: ***Equal Employment Opportunity Commission v. Northwestern Human Services***
Civil Action No. 04-cv-4531

Memo: Consent Decree to follow.

Via Fax: Eleven (11) pages transmitted to include this cover page.